

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.) No. 6:15-cr-00202
)
KHANG NGUYEN LE,)
)
Defendant.)
-----)

TRANSCRIPT OF PLEA PROCEEDINGS
BEFORE THE HONORABLE PATRICK J. HANNA

THURSDAY, MARCH 17, 2016; 11:06 A.M.
LAFAYETTE, LOUISIANA

APPEARANCES OF COUNSEL:

FOR THE UNITED STATES:

David C. Joseph
U.S. ATTORNEY'S OFFICE (LAF)
800 Lafayette Street, Suite 2200
Lafayette, Louisiana 70501

FOR THE DEFENDANT:

Wayne J. Blanchard
FEDERAL PUBLIC DEFENDERS OFFICE (LAF)
102 Versailles Boulevard, Suite 816
Lafayette, Louisiana 70501

GAYLE WEAR, RPR, CRR
Federal Official Court Reporter
800 Lafayette Street, Suite 3102
Lafayette, Louisiana 70501
337.593.5222

1 MARCH 17, 2016

11:06 A.M.

2 ---o0o---

3 P R O C E E D I N G S

4 ---o0o---

5 THE COURT: Okay. We are on the record.

6 This is United States versus Khang Le, 15-cr-202, for a
7 change of plea hearing.

8 May I have appearances, please.

9 MR. JOSEPH: David Joseph, for the United
10 States, Your Honor.

11 MR. BLANCHARD: Wayne Blanchard, for Mr. Le,
12 Your Honor. And also with me at counsel table is
13 Mr. Quang Pham, who is an interpreter and who I have
14 hired to assist me in representing Mr. Le.

15 My suggestion to Mr. Le has been that if,
16 during this plea, he wants to speak to me, then he
17 should tell the court's interpreter on the phone, and
18 we'll step away and talk with Mr. Pham.

19 THE COURT: All right. Ms. Che, I'm going to
20 have the courtroom deputy swear you in now.

21 THE COURTROOM DEPUTY: Raise your right hand.

22 Do you solemnly swear that you will justly,
23 truly, fairly, and impartially act as an interpreter in
24 the case now before the court, so help you God?

25 INTERPRETER CHE: I do.

1 MYHANH CHE,
2 Vietnamese interpreter, appearing telephonically,
3 was duly sworn by the Courtroom Deputy.

4 THE COURT: All right. Now we need to swear
5 in the defendant, please.

6 THE COURTROOM DEPUTY: Do you solemnly swear
7 that the testimony you're about to give in this case is
8 the truth, the whole truth, and nothing but the truth,
9 so help you God?

10 THE DEFENDANT/INTERPRETER PHAM: Yes.

11 KHANG NGUYEN LE,
12 first having been duly sworn by the Courtroom Deputy
13 through the Vietnamese interpreter, testifies under
14 oath as follows:

15 THE COURT: Come to the podium.

16 MR. BLANCHARD: Yes, Your Honor.

17 THE COURT: All right. Mr. Le, you
18 understand that now that you've been sworn, your
19 answers to my questions will be subject to the
20 penalties of perjury or making a false statement if you
21 do not answer truthfully?

22 INTERPRETER PHAM: Yes, Your Honor.

23 THE COURT: I'm waiting for Ms. Che to say
24 "yes."

25 Ms. Che?

1 INTERPRETER CHE: Yes.

2 THE COURT: Did you hear him?

3 INTERPRETER CHE: Yes, I did.

4 THE COURT: And his answer was...

5 INTERPRETER CHE: "Yes." I'm sorry.

6 THE COURT: That's okay.

7 Pull that microphone closer so she can hear
8 him.

9 Mr. Le, do you understand I'm a United States
10 Magistrate Judge, not a United States District Judge,
11 and I am not empowered to accept a plea in a felony
12 case. I am empowered to talk to you today and decide
13 whether to recommend to Judge Walter whether he should
14 accept your guilty plea.

15 Do you understand?

16 THE DEFENDANT/INTERPRETER CHE: I understand.

17 THE COURT: What I am going to do today is I
18 am going to preside over this hearing, and I will take
19 testimony and talk to you regarding the case and your
20 proposed plea. We will prepare a transcript of this
21 hearing, and the court reporter will provide it to
22 Judge Walter, who will ultimately decide to accept or
23 reject the guilty plea after I make a recommendation to
24 him.

25 Do you understand?

1 THE DEFENDANT/INTERPRETER CHE: I understand.

2 THE COURT: Do you waive your right to appear
3 before a District Judge and, instead, agree and consent
4 to appear before me today for purposes of this hearing?

5 THE DEFENDANT/INTERPRETER CHE: Yes.

6 THE COURT: Mr. Joseph, do you have the
7 consent pleas?

8 MR. JOSEPH: I do, Your Honor. And I can
9 submit it now or with the rest of the --

10 THE COURT: I want it now.

11 (Pause in the proceedings.)

12 THE COURTROOM DEPUTY: This is not signed.

13 MR. BLANCHARD: Okay.

14 Ms. Che, can you hear me? This is Wayne
15 Blanchard, his attorney.

16 INTERPRETER CHE: Yes, the interpreter can
17 hear you.

18 MR. BLANCHARD: Okay. Tell him that I am
19 presenting the consent for him to enter this guilty
20 plea before Magistrate Judge Hanna, instead of Judge
21 Walter.

22 THE DEFENDANT/INTERPRETER CHE: Yes.

23 MR. BLANCHARD: And that Judge Walter will
24 sentence him at a later date.

25 THE DEFENDANT/INTERPRETER CHE: Yes.

1 MR. BLANCHARD: And I would ask that you sign
2 right here, Mr. Le; 17th.

3 (Pause in the proceedings.)

4 MR. BLANCHARD: Your Honor, I started the
5 date where your signature is. So I'll just let you
6 sign over me, I guess.

7 THE COURT: That's okay.

8 The record will reflect that the Consent to
9 Plea Before a United States Magistrate Judge in a
10 Felony Case and Waiver of Objection to Report and
11 Recommendation has been signed by the defendant and his
12 counsel, as well as me, the 17th day of March, 2016;
13 and that will be filed into the record.

14 Mr. Joseph, would you please sign that
15 document on behalf of the government?

16 MR. JOSEPH: Yes, Your Honor.

17 THE COURT: Thank you.

18 All right. Mr. Blanchard, how does Mr. Le
19 intend to plead?

20 MR. BLANCHARD: Guilty to Count 1 of the
21 indictment, Your Honor.

22 THE COURT: All right. Mr. Le, is that
23 correct that you wish to enter a plea of guilty in this
24 matter to Count 1 of the indictment?

25 THE DEFENDANT/INTERPRETER CHE: Yes.

1 THE COURT: Before accepting your plea, there
2 are a number of questions I will ask you in order to
3 assure myself you are entering a valid plea. If you do
4 not understand any of the questions or at any time you
5 wish to stop and consult with your attorney, please say
6 so, as it is essential to a valid plea that you
7 understand each question before you answer. Okay?

8 THE DEFENDANT/INTERPRETER CHE: Yes.

9 THE COURT: How old are you?

10 THE DEFENDANT/INTERPRETER CHE: 38 years old.

11 THE COURT: What is your education?

12 THE DEFENDANT/INTERPRETER CHE: University.

13 THE COURT: Can you read and write your
14 native language?

15 THE DEFENDANT/INTERPRETER CHE: Yes.

16 THE COURT: Have you had any drugs, pills of
17 any kind, or any alcoholic beverages in the past
18 24 hours?

19 THE DEFENDANT/INTERPRETER CHE: No, sir.

20 THE COURT: Have you ever been treated for
21 any type of mental illness or addiction to alcohol or
22 drugs?

23 THE DEFENDANT/INTERPRETER CHE: No, sir.

24 THE COURT: Do you understand that you're
25 here today to plead guilty to the crime identified in

1 Count 1 of the indictment?

2 THE DEFENDANT/INTERPRETER CHE: Yes, I do.

3 THE COURT: All right. Mr. Blanchard, do you
4 have any doubt as to your client's competence to plead?

5 MR. BLANCHARD: I do not, Your Honor.

6 THE COURT: Mr. Joseph, do you have any doubt
7 as to the defendant's competence to plead?

8 MR. JOSEPH: No, Your Honor.

9 THE COURT: Based on the responses of the
10 defendant, the representation of counsel, I find the
11 defendant is competent to enter a plea in this matter.

12 Mr. Le, have you had ample opportunity to
13 discuss your case with your lawyer?

14 THE DEFENDANT/INTERPRETER CHE: Yes.

15 THE COURT: Are you satisfied with both
16 Mr. Mayeux and Mr. Blanchard's representation of you?

17 THE DEFENDANT/INTERPRETER CHE: Yes.

18 THE COURT: Does the defendant waive reading
19 of the indictment at this point?

20 MR. BLANCHARD: Yes, Your Honor.

21 THE COURT: Thank you very much.

22 Mr. Le, these are your constitutional rights
23 that you will necessarily have to waive in order for us
24 to proceed. Under the Constitution and laws of the
25 United States, you are entitled to a trial by a jury of

1 twelve people on the charges contained in the
2 indictment. In order to convict you, all twelve of the
3 jurors would have to agree to your guilt.

4 Do you understand?

5 THE DEFENDANT/INTERPRETER CHE: Yes, I
6 understand.

7 THE COURT: You have the right to plead not
8 guilty and the right to persist in your plea of not
9 guilty.

10 Do you understand?

11 THE DEFENDANT/INTERPRETER CHE: Yes, I
12 understand.

13 THE COURT: At trial, you would be presumed
14 innocent, and the government would have to overcome
15 that presumption and prove you guilty by competent
16 evidence and beyond a reasonable doubt; you would not
17 have to prove that you are innocent.

18 Do you understand?

19 THE DEFENDANT/INTERPRETER CHE: Yes, I
20 understand.

21 THE COURT: In the course of trial, the
22 witnesses for the government would have to come to
23 court and testify in your presence, and your counsel
24 could cross-examine the witnesses for the government,
25 object to evidence offered by the government, and offer

1 evidence on your behalf.

2 Do you understand?

3 THE DEFENDANT/INTERPRETER CHE: Yes, I
4 understand.

5 THE COURT: At trial, while you would have a
6 right to testify if you chose to do so, you would also
7 have the right not to be compelled to incriminate
8 yourself and not testify.

9 Do you understand?

10 THE DEFENDANT/INTERPRETER CHE: Yes, I
11 understand.

12 THE COURT: At trial, you would have the
13 right to summon or call witnesses on your own behalf.

14 Do you understand that?

15 THE DEFENDANT/INTERPRETER CHE: Yes, I
16 understand.

17 THE COURT: If I recommend accepting your
18 guilty plea, do you understand you will waive your
19 right to a trial and the other rights I have just
20 discussed if the plea is accepted by Judge Walter?
21 There would be no further trial, there would simply be
22 entered a judgment of guilty and a sentence for you on
23 the basis of your guilty plea.

24 Do you understand?

25 THE DEFENDANT/INTERPRETER CHE: Yes, I

1 understand.

2 THE COURT: In pleading guilty, do you
3 understand you will also have to waive your right not
4 to incriminate yourself, since I have to ask you
5 questions about what you did in order to satisfy myself
6 that you are guilty as charged, and you will have to
7 admit or acknowledge your guilt?

8 THE DEFENDANT/INTERPRETER CHE: Yes.

9 THE COURT: I'm going to ask you about the
10 facts that are supporting your plea of guilty. In
11 order for you to answer me, you will essentially be
12 incriminating yourself because you are pleading guilty.

13 Do you understand that?

14 THE DEFENDANT/INTERPRETER CHE: I understand.

15 THE COURT: Are you willing to waive your
16 right to remain silent and not incriminate yourself?

17 THE DEFENDANT/INTERPRETER CHE: Yes.

18 THE COURT: Are you willing to waive and give
19 up your right to a trial and the other rights I have
20 just discussed?

21 THE DEFENDANT/INTERPRETER CHE: Yes.

22 THE COURT: Have your lawyers advised you
23 that you have a risk of being deported if you plead
24 guilty to this offense?

25 THE DEFENDANT/INTERPRETER CHE: He did.

1 THE COURT: You have been charged in Count 1
2 of the indictment with wire fraud. I am required to
3 explain this offense to you. In order to be found
4 guilty of this crime, the government must prove each of
5 the following elements beyond a reasonable doubt:

6 First, that you knowingly devised or intended
7 to devise any scheme to defraud, as stated in the
8 indictment filed against you;

9 second, that the scheme to defraud employed
10 false material representations, false material
11 pretenses or false material promises;

12 third, that you transmitted, caused to be
13 transmitted by way of wire communications in interstate
14 commerce any writing for the purpose of executing such
15 scheme;

16 and, fourth, that you acted with a specific
17 intent to defraud. "A specific intent to defraud"
18 means a conscious, knowing intent to deceive or cheat
19 someone. A scheme or plan to defraud means any plan,
20 pattern, or course of action intended to deprive
21 another of money or property. It can also involve any
22 scheme to deprive an employer of the intangible rights
23 to honest services through soliciting or accepting
24 bribes or kickbacks.

25 A representation is false if it is known to

1 be untrue or is made with reckless indifference as to
2 its truth or falsity.

3 A representation would also be false if it
4 constitutes a half truth or effectively or omits or
5 conceals -- excuse me, or effectively omits or conceals
6 a material fact, provided it is made with the intent to
7 defraud.

8 A representation is material if it has a
9 natural tendency to influence or is capable of
10 influencing the decision of the person or entity to
11 which it is addressed. The alleged scheme need not
12 actually succeed in defrauding anybody.

13 To cause interstate wire communications
14 facilities to be used is to do an act with knowledge
15 that the use of the wire communications facilities will
16 follow in the ordinary course of business or where such
17 use can reasonably be foreseen.

18 Each separate use of the interstate wire
19 communications facilities in furtherance of a scheme to
20 defraud by means of false or fraudulent pretenses,
21 representations or promises, constitutes a separate
22 offense.

23 Do you understand the nature of the charge
24 against you?

25 THE DEFENDANT/INTERPRETER CHE: I understand.

1 THE COURT: If the case were to proceed to
2 trial, the government would also have the burden of
3 proving venue; that is, the government would have to
4 prove that the offense was begun, continued, or
5 completed in one of the parishes that make up the
6 Western District of Louisiana.

7 In the stipulated factual basis for guilty
8 plea, it states the following: {Reading.} Khang
9 Nguyen Le served as the president and presiding monk of
10 the Vietnamese Buddhist Association of Southwest,
11 Louisiana, Inc., from approximately 2010 through
12 October of 2014.

13 Is that statement true?

14 THE DEFENDANT/INTERPRETER CHE: Yes, that's
15 correct.

16 THE COURT: During this time, he lived on the
17 temple's premises in Lafayette, Louisiana. In his role
18 as president and presiding monk of the temple, Le was
19 given access to certain bank accounts held by the
20 temple at Gulf Coast Bank, Iberia Bank, and JP Morgan
21 Chase Bank, collectively "the temple accounts," for the
22 purpose of making approved purchases on behalf of the
23 temple and buying food and related items for use at the
24 temple's meetings.

25 Are those statements true?

1 THE DEFENDANT/INTERPRETER CHE: Yes, that's
2 correct.

3 THE COURT: It was at all times understood by
4 both Le and the members of the temple's congregation
5 that any major expenditure of temple funds was to be
6 discussed in advance at congregational meetings of the
7 temple. At no time was Le authorized to use money
8 contained in the temple accounts for gambling purposes.

9 Are those statements true?

10 THE DEFENDANT/INTERPRETER CHE: Yes, correct.

11 THE COURT: Beginning no later than
12 January 13, 2013, and continuing until on or about
13 August 22, 2014, Le began using the temple's money to
14 fund gambling trips to the L'Auberge Casino in lake
15 Charles, Louisiana. In order to do this, he would
16 withdraw money from the automatic -- excuse me --
17 automated teller machines, ATMs, located at or near the
18 lobby casino, or making debit card withdrawals from
19 casino stations. The withdrawn money was then used by
20 Le for the purpose of gambling.

21 Are those statements true?

22 THE DEFENDANT/INTERPRETER CHE: Yes, correct.

23 THE COURT: In order to hide his gambling
24 activity and to disguise the amount of money he was
25 losing while gambling at the casino, Le would

1 misrepresent to the other members at the temple the
2 monetary balance in the temple accounts at
3 congregational meetings of the temple. He would also
4 gamble in relatively unpopulated parts of the casino in
5 order to avoid encountering members of the temple or of
6 the larger Buddhist community.

7 Are those statements true?

8 THE DEFENDANT/INTERPRETER CHE: Yes, correct.

9 THE COURT: During the relevant time period,
10 Le wrongfully and with the intent to defraud withdrew
11 \$263,463.36 in cash from the temple accounts and used
12 such money for his own purposes, primarily for the
13 purpose of gambling.

14 However, because some of this withdrawn money
15 may have been periodically redeposited by Le into the
16 temple accounts, the overall loss to the temple as a
17 result of Le's gambling activity is less.

18 Are those statements true?

19 THE DEFENDANT/INTERPRETER CHE: Yes, correct.

20 THE COURT: An interstate wire communication,
21 representative of Le's larger scheme and artifice to
22 defraud, occurred on April 15, 2013, when Le withdrew
23 \$4,280 at the L'Auberge Casino in Lake Charles,
24 Louisiana, from the temple's Chase account, which
25 transaction caused one or more interstate wire

1 transmissions to and from computer services -- computer
2 servers located outside of the State of Louisiana.

3 Are those statements true?

4 THE DEFENDANT/INTERPRETER CHE: Yes, correct.

5 THE COURT: It is herein stipulated and
6 agreed that the defendant, Khang Nguyen Le,
7 intentionally devised a scheme to defraud the temple by
8 wrongfully using the temple's money for his own
9 purposes; that is, to gamble.

10 In executing his scheme to defraud, Le made
11 false material representations in that, among other
12 things, he misrepresented the monetary balances in the
13 temple accounts to the congregation during temple
14 meetings.

15 It is further stipulated and agreed that Le
16 caused interstate wire transmissions for the purpose of
17 executing his scheme when he withdrew cash at the
18 L'Auberge Casino in Lake Charles, Louisiana, at both
19 ATM machines and casino tellers. It is also stipulated
20 and agreed that Le acted with specific intent to
21 defraud in taking money from the temple accounts.

22 Mr. Le, do you so stipulate and agree to the
23 statements I just read?

24 THE DEFENDANT/INTERPRETER CHE: Yes.

25 THE COURT: The maximum possible penalty

1 under Count 1 of the indictment is prison term of not
2 more than 20 years; a fine of not more than \$250,000;
3 or both; a term of supervised release of not more than
4 three years following confinement; and a \$100 special
5 assessment fee due at the time of acceptance of the
6 plea.

7 Do you understand?

8 THE DEFENDANT/INTERPRETER CHE: Yes, I
9 understand.

10 THE COURT: The Court also has the order --
11 excuse me. The Court also has the authority to order
12 restitution.

13 Do you understand?

14 Uh-oh. Ms. Che? Did you get the last
15 answer?

16 INTERPRETER PHAM: Nothing, Your Honor.

17 THE COURT: Ms. Che?

18 THE DEFENDANT/INTERPRETER PHAM: Yes, I did,
19 Your Honor.

20 THE COURT: Okay. Hang on. We'll see if we
21 can get her back. But thank you, Mr. Pham.

22 INTERPRETER PHAM: You're welcome, Your
23 Honor.

24 (Pause in the proceedings - technical difficulties.)

25 INTERPRETER CHE: Hi, this is the

1 interpreter. Can you hear me?

2 THE COURT: Can you hear me?

3 INTERPRETER CHE: Yes, I can, Your Honor.

4 THE COURT: Okay. So the last question was
5 whether he understood that the Court had authority to
6 order restitution.

7 THE DEFENDANT/INTERPRETER CHE: Yes, I
8 understand.

9 THE COURT: All right. Mr. Le, do you also
10 understand in every criminal case in which a defendant
11 may be sentenced to more than one year, as in this
12 case, that in addition to any maximum possible penalty,
13 the court must order a term of supervised release; in
14 this case, for a length of not more than three years.

15 Do you understand?

16 THE DEFENDANT/INTERPRETER CHE: Yes, I
17 understand.

18 THE COURT: While on supervised release, you
19 would be required to abide by conditions specified by
20 the court, just as you have on pretrial release.

21 THE DEFENDANT: Yeah.

22 THE COURT: And supervised release might be
23 revoked if you violate any of those conditions.

24 Do you understand?

25 THE DEFENDANT/INTERPRETER CHE: Yes, I

1 understand.

2 THE COURT: If supervised release is revoked
3 for any reason, it is possible that you could be in
4 prison for the full term of supervised release without
5 credit for time spent on post-release supervision such
6 that the combined time spent in prison and a subsequent
7 revocation of supervised release may actually exceed
8 the statutory maximum.

9 Do you understand?

10 THE DEFENDANT/INTERPRETER CHE: Yes, I
11 understand.

12 THE DEFENDANT/INTERPRETER PHAM: It's very
13 hard to listen over the phone for right now.

14 THE COURT: Okay.

15 THE DEFENDANT/INTERPRETER PHAM: Please do
16 so, so the noise going to be clear.

17 THE COURT: Hang on a second.

18 THE DEFENDANT/INTERPRETER PHAM: And last
19 time, I had the same problem.

20 THE COURTROOM DEPUTY: Mr. Le says there is a
21 lot of noise on the line.

22 THE COURT: Maybe hold it away from the
23 microphone?

24 (Pause in the proceedings.)

25 THE COURT: Is that better?

1 THE DEFENDANT/INTERPRETER PHAM: That's fine.

2 THE DEFENDANT/INTERPRETER CHE: Yes. It's
3 okay now.

4 THE COURT: Okay, good. Do you understand
5 the offense to which you are pleading guilty is a
6 felony and, if your plea is accepted, you will be
7 adjudged guilty of that offense and that adjudication
8 may deprive you of rights such as a right to vote,
9 serve on a jury, and possess a firearm?

10 THE DEFENDANT/INTERPRETER CHE: I understand.

11 THE COURT: Has anyone anywhere, any time,
12 directly or indirectly, threatened you or leaned on you
13 or forced you to plead guilty or told you that if you
14 do not plead guilty, further charges will be brought
15 against you or other adverse action will be taken
16 against you?

17 THE DEFENDANT/INTERPRETER CHE: No, sir.

18 THE COURT: All right. There has been a plea
19 agreement entered into between you, your counsel, and
20 the United States attorney that is reduced to writing
21 and signed by you, your lawyer, and U.S. attorney.

22 Correct?

23 THE DEFENDANT/INTERPRETER CHE: Yes, correct.

24 THE COURT: All right. Mr. Joseph, does the
25 plea agreement contain a motion under §3E1.1 for

1 acceptance of responsibility?

2 MR. JOSEPH: It does, Your Honor. And he
3 would receive one additional point if the guideline
4 range is 16 or above.

5 THE COURT: All right. Would you give the
6 Court a synopsis of the plea agreement, please?

7 MR. JOSEPH: Yes, Your Honor. The plea
8 agreement --

9 THE COURT: Slowly.

10 MR. JOSEPH: In the plea agreement, the
11 defendant is obligated to plead guilty to Count 1 of
12 the pending indictment. If the defendant fulfills the
13 condition, the United States will dismiss the remaining
14 counts of the indictment.

15 And the United States will also move,
16 pursuant to Guideline §3E1.1(b) for the defendant to
17 receive one -- an additional one-point reduction in his
18 offense level should the offense level be a 16 or
19 greater, as the defendant has assisted the United
20 States in the prosecution of his own misconduct.

21 And the defendant also agrees, in addition to
22 any penalties or fines that this court may impose, to
23 make restitution to the Vietnamese Buddhist Association
24 in the amount of loss to the temple.

25 And Mr. Le also understands that if the plea

1 agreement falls through at a later date, the indictment
2 in its entirety will be reinstated.

3 That's the synopsis, Your Honor.

4 THE COURT: Let me add one thing to that.

5 You understand, Mr. Le, that the sentencing
6 judge alone would decide what your sentence would be?

7 THE DEFENDANT/INTERPRETER PHAM: I couldn't
8 hear very clear.

9 THE DEFENDANT/INTERPRETER CHE: I couldn't
10 hear that statement very clearly.

11 MR. BLANCHARD: Would you please tell him,
12 Mr. Pham, what Judge Hanna just said?

13 THE DEFENDANT/INTERPRETER PHAM: A lot of
14 noise on that phone right now, Your Honor.

15 THE COURT: Okay.

16 THE DEFENDANT/INTERPRETER CHE: There is a
17 lot of noise right now.

18 THE COURT: All right. Ms. Che, were you
19 able to hear what the Assistant United States Attorney
20 was saying?

21 INTERPRETER CHE: Yes.

22 THE COURT: All right. Were you able to
23 translate that for Mr. Le?

24 INTERPRETER CHE: Yes, Your Honor.

25 THE COURT: Mr. Le, could you hear what she

1 translated?

2 THE DEFENDANT/INTERPRETER PHAM: Yes, I do.

3 THE COURT: Okay. All right. Well, let me
4 try this.

5 Mr. Blanchard, do you agree with the
6 government's synopsis of the plea agreement?

7 MR. BLANCHARD: Yes, Your Honor, I do.

8 THE COURT: Mr. Le, do you agree the
9 substance of the plea agreement was correct?

10 THE DEFENDANT/INTERPRETER CHE: Yes.

11 THE COURT: All right. Mr. Joseph, before
12 the plea agreement was executed, did you communicate to
13 defense counsel every plea offer the government was
14 prepared to make up until the time the agreement was
15 executed?

16 MR. JOSEPH: I did, Your Honor.

17 THE COURT: Mr. Mayeux -- well, Mr. Mayeux is
18 not here.

19 Mr. Blanchard, before this plea agreement was
20 executed, is it your understanding that every plea
21 offer the government communicated to counsel was
22 communicated to the defendant?

23 MR. BLANCHARD: It was, Your Honor. And I
24 worked very closely with Mr. Mayeux on this, and I know
25 that they were --

1 THE COURT: All right.

2 MR. BLANCHARD: -- from talking to
3 Mr. Mayeux. Mr. Mayeux was at every meeting I had with
4 Mr. Le, except for the meeting this morning before
5 court.

6 THE COURT: All right. Mr. Le, has anyone
7 anywhere, any time, directly or indirectly, made any
8 promise other than the plea agreement that induced you
9 to plead guilty?

10 THE DEFENDANT/INTERPRETER CHE: No, sir.

11 THE COURT: All right. Do you understand any
12 recommendation of sentence agreed to by your lawyer and
13 the United States attorney is not binding on the
14 sentencing court -- that would be Judge Walter -- and
15 you might, on the basis of your guilty plea, receive a
16 more severe sentence than requested or recommended?

17 Do you understand?

18 THE DEFENDANT/INTERPRETER CHE: Yes.

19 THE COURT: If the court does not accept the
20 United States attorney's recommendation of sentence, do
21 you understand you will not have the right to withdraw
22 your guilty plea, you will still be bound by it?

23 THE DEFENDANT/INTERPRETER CHE: Yes.

24 THE COURT: Has anyone anywhere, any time,
25 directly or indirectly, made any prediction, prophecy

1 or promise to you as to what your sentence will be?

2 THE DEFENDANT/INTERPRETER CHE: No, sir.

3 THE COURT: You understand the United States
4 Sentencing Commission has issued guidelines for judges
5 to consider in determining a sentence; and while the
6 court must consider them, the United States Supreme
7 Court has ruled the sentencing guidelines are not
8 mandatory and the court is not bound by them.

9 Do you understand?

10 THE DEFENDANT/INTERPRETER CHE: Yes.

11 THE COURT: Have you and your lawyers talked
12 about how the guidelines might apply to your case?

13 THE DEFENDANT/INTERPRETER CHE: Yes, we have.

14 THE COURT: All right. You understand if the
15 government is agreeing not to prosecute other counts or
16 charges in the indictment, that conduct might still be
17 considered in the presentence report and affect the
18 sentence to be imposed by the court.

19 Do you understand?

20 THE DEFENDANT/INTERPRETER CHE: Yes, I
21 understand.

22 THE COURT: Do you understand if your
23 sentence is more severe than you expect, you will still
24 be bound by your guilty plea and have no right to
25 withdraw it?

1 THE DEFENDANT/INTERPRETER CHE: Yes, I
2 understand.

3 THE COURT: Mr. Joseph, is the government
4 aware of any facts besides those contained in the
5 indictment and the stipulated factual basis that might
6 affect relevant conduct?

7 MR. JOSEPH: Your Honor, I think the
8 stipulated factual basis leaves open the question of
9 the actual loss to the temple. And so as far as that
10 goes, I think that there may be additional factors that
11 will affect relevant conduct as far as that goes. But
12 absent that, no, Your Honor, the government does not.

13 THE COURT: Do you understand, Mr. Le, what
14 relevant conduct is?

15 THE DEFENDANT/INTERPRETER CHE: Yes, I
16 understand.

17 THE COURT: Okay. What Mr. Joseph is talking
18 about is the ultimate calculation of loss, whatever
19 that turns out to be, may affect relevant conduct.

20 Do you understand?

21 THE DEFENDANT/INTERPRETER CHE: Yes, I
22 understand.

23 THE COURT: All right. Do you understand
24 under some circumstances, you or the government may
25 have the right to appeal any sentence?

1 THE DEFENDANT/INTERPRETER CHE: Yes.

2 THE COURT: You understand you would have the
3 right to appeal without payment of costs?

4 THE DEFENDANT/INTERPRETER CHE: I didn't hear
5 that very clearly.

6 THE COURT: Do you understand you have the
7 right to appeal without payment of costs?

8 THE DEFENDANT/INTERPRETER CHE: Yes, I
9 understand.

10 THE COURT: You understand parole has been
11 abolished and, if you're sentenced to prison, you will
12 not be released on parole?

13 THE DEFENDANT/INTERPRETER CHE: I understand.

14 THE COURT: Do you have any questions you
15 wish to ask of counsel or the Court at this point?

16 THE DEFENDANT/INTERPRETER CHE: No, sir.

17 THE COURT: Mr. Joseph, would you please make
18 your filings?

19 MR. JOSEPH: Yes, Your Honor. At this time,
20 the government would submit into the record --

21 THE COURT: Slow, slow, slow.

22 MR. JOSEPH: -- the plea packet, which
23 consists of the copy of the indictment, the affidavit
24 of understanding of maximum penalty and constitutional
25 rights, the elements of the offense, the plea

1 agreement, and the stipulated factual basis.

2 THE COURT: Any objection, Mr. Blanchard?

3 MR. BLANCHARD: No, Your Honor.

4 THE COURT: Without objection, let it be
5 admitted.

6 For purposes of the record, I will write in
7 the year on the affidavit of understanding of maximum
8 penalty and constitutional rights. It is dated
9 March 9, and I assume that will be March 9, 2016.

10 MR. BLANCHARD: It was, Your Honor. It was
11 last Wednesday, in my office.

12 THE COURT: Thank you.

13 MR. BLANCHARD: With Mr. Pham present.

14 THE COURT: All right. The elements of the
15 offense is also not dated. Was that signed on the same
16 day?

17 MR. BLANCHARD: They were all signed last
18 Wednesday, March the 9th, Your Honor.

19 THE COURT: All right. I will so indicate on
20 the document.

21 And the same with the stipulated factual
22 basis?

23 MR. BLANCHARD: Yes, Your Honor.

24 THE COURT: All right. Mr. Blanchard, you
25 have gone through all of these documents, specifically

1 the affidavit of understanding of maximum penalty and
2 constitutional rights, the elements of the offense, the
3 plea agreement, and the stipulated factual basis with
4 your client in his native language?

5 MR. BLANCHARD: Yes, Your Honor.

6 THE COURT: And is it your representation to
7 the Court that he understands each of these documents?

8 MR. BLANCHARD: I believe that he
9 understands, Your Honor.

10 THE COURT: All right. Mr. Le, you have gone
11 through the documents entitled "Affidavit of
12 Understanding of Maximum Penalty and Constitutional
13 Rights," "Elements of the Offense," the "Plea
14 Agreement," and the "Stipulated Factual Basis" with
15 your lawyers in your native language?

16 THE DEFENDANT/INTERPRETER CHE: Yes.

17 THE COURT: And you understand all of those
18 documents?

19 THE DEFENDANT/INTERPRETER CHE: Yes, I
20 understood.

21 THE COURT: And you signed them in the
22 presence of your lawyer?

23 THE DEFENDANT/INTERPRETER CHE: Yes.

24 THE COURT: And you did so voluntarily?

25 THE DEFENDANT/INTERPRETER CHE: Yes.

1 THE COURT: All right. How do you plead,
2 then, to Count 1 of the indictment? Guilty or not
3 guilty?

4 THE DEFENDANT/INTERPRETER CHE: Guilty.

5 THE COURT: Since you've acknowledged you are
6 in fact guilty as charged in Count 1 of the indictment,
7 since you know your right to a trial, what the maximum
8 possible penalty is, and since you are voluntarily
9 pleading guilty, I will recommend to Judge Walter that
10 he accept your guilty plea and enter a judgment of
11 guilty on your plea.

12 It is my finding and recommendation to Judge
13 Walter that in the case of United States of America
14 versus Khang Nguyen Le, criminal number 6:15-cr-202-01,
15 that the defendant is fully competent and capable of
16 entering an informed plea; and that this plea of guilty
17 is a knowing and voluntary plea supported by an
18 independent basis in fact concerning each of the
19 essential elements of the offenses referenced; and that
20 Judge Walter, therefore, except the plea and adjudge
21 the defendant guilty of that offense.

22 I will order a presentence investigation
23 report; and the 70-day local rule is waived.

24 Mr. Le, I urge you to cooperate with the
25 probation officer in furnishing information for that

1 report, since it will be important in the decision as
2 to what your sentence will be. You have a right to
3 have your attorney present when you give information to
4 the probation officer, if you wish.

5 You will also have an opportunity to read the
6 presentence report before sentencing. You will also be
7 allowed to speak or have your attorney speak for you at
8 the sentencing hearing.

9 Sentencing is set for June 27th, 2016, at
10 11:30 a.m. before Judge Walter in Shreveport.
11 Presentence memoranda are due 14 days before that. Any
12 response by the government is due no later than seven
13 days thereafter.

14 If you intend to submit evidence or
15 testimony, Mr. Blanchard, please let Judge Walter's
16 office know.

17 MR. BLANCHARD: Yes, Your Honor.

18 THE COURT: It is my order that the Court
19 Reporter transcribe this hearing and file a copy of
20 that transcript into the record of this case, and
21 furnish a copy of the transcript to Judge Walter and to
22 me.

23 It is my further order that the Clerk notify
24 both parties of the filing of the transcript, at which
25 time I will file my written report and recommendation

1 to Judge Walter.

2 It is my order that the defendant may remain
3 out on bond under the conditions previously entered by
4 the court.

5 Mr. Le, you understand that now that you have
6 pled guilty, if you violate any of the conditions of
7 release, it could adversely impact your sentence.

8 THE DEFENDANT/INTERPRETER CHE: Yes.

9 THE COURT: Okay. Anything else that needs
10 to come before the court from the government?

11 MR. JOSEPH: No, Your Honor.

12 THE COURT: Anything else from the defense?

13 MR. BLANCHARD: No, Your Honor.

14 THE COURT: Mr. Le, good luck to you.

15 We're in recess.

16 (Adjourned at 11:58 a.m.)

17 * * * * *

18

19

20

21

22

23

24

25

1 CERTIFICATE OF OFFICIAL REPORTER

2
3
4 I, Gayle Wear, Federal Official Court
5 Reporter, in and for the United States District Court
6 for the Western District of Louisiana, do hereby
7 certify that pursuant to Section 753, Title 28 United
8 States Code that the foregoing is a true and correct
9 transcript of the stenographically reported proceedings
10 held in the above-entitled matter and that the
11 transcript page format is in conformance with the
12 regulations of the Judicial Conference of the United
13 States.

14
15 Dated 24th day of March, 2016.
16
17

18 /s/ Gayle Wear
19 GAYLE WEAR, RPR, CRR
20 FEDERAL OFFICIAL COURT REPORTER
21
22
23
24
25